

### REMARKS

Reconsideration is respectfully requested.

Claims 1 through 15, 26 through 39 and 54 remain in this application. Claims 16 through 25 and 40 through 53 have been cancelled. No claims have been withdrawn. No claims have been added.

It is noted that claims 26, 29, and 30, which were indicated as being allowed in the pending Office Action, have been amended to removed to remove some features that are not believed to significantly affect the allowability of the claims. For example, claim 29 has been amended to remove the requirement of “said store station including a portable station movable by a user about a product storage space”, which is not further referred to in the claim. Claim 26 has been amended to remove “said store station including a portable station movable by a user about a product storage space”, and also has been amended to require “*determining a merchandise order fulfillment path through said product storage space, said order fulfillment path comprising a sequence of person movement instructions between the product locations of product items on said listing of product items*” and “*providing a plurality of said person movement instructions and a plurality of corresponding product item identities to a user located in said product storage space for permitting the user to locate a product item in said product storage space by following said plurality of person movement instructions*”, which is submitted to be foreign to the prior art. Claim 30 has also been amended to remove “said store station including a portable station movable by a user about a product storage space”, and amended to recite “*determining a merchandise order fulfillment path through said product storage space, said order fulfillment path comprising a sequence of person movement instructions between the product locations of product items on said listing of merchandise items*” and “*providing said*

*sequence of person movement instructions between the product locations according to said merchandise order fulfillment path to a user located in said product storage space for permitting the user to locate a product item in said product storage space by following said sequence of person movement instructions”.*

**Paragraph 5 of the Office Action**

Claim 54 has been rejected under 35 U.S.C. Section 103(a) as being unpatentable over Walsh in view of Scherer.

Claim 54, particularly as amended, requires “providing the customer with an option to respond, according to the customer’s preference, with a requested product identification in spoken words and an option to respond with a requested product identification in DTMF-encoded signals”.

The rejection of claim 54 in the Office Action concedes that: Walsh reference teaches

Walsh fails to teach "providing the customer an option to respond, according to the customer's preference, with a requested product identification in spoken words and an option to respond with a requested product identification in DTMF-encoded signals".

It is then contended that:

Scherer, in the same field of endeavor, however, teaches a method of merchandise ordering and order fulfillment comprising these features (...telephone as the instrument of data entry (either the caller's phone or the called party's phone or one of the parties may speak the information through voice recognition), to be prompted during the call, see col. 1 L 40-56).

It is then further contended that:

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Walsh in view of Scherer to provide the customer the option to respond according to the customer's preference as stated because this would provide flexibility to the customer to provide the requested information via the customer's telephone system.

Turning to the portion of the Scherer patent that is referenced in the rejection of the Office Action, it states:

The traditional approaches to ordering merchandise or processing other types of transactions over the telephone do not have the flexibility to allow either the calling party or called party to enter data or to allow either party to modify the data once it has been collected. The present invention--the Telephone Charging Agent (TCA)--addresses these limitations by allowing two or more people on a telephone call to enter data (for example credit card data or other charging data such as a card number, a home telephone number, a dollar amount, etc.) using the telephone as the instrument of data entry (either the caller's phone or the called party's phone or one of the parties may speak the information through voice recognition), to be prompted during the call for data, and have the charges validated, manipulated, or refunded during the call. The advantages of the present invention are explained further by the accompanying drawings and detailed description.

However, while this portion of the Scherer patent does make some relatively vague references to using "the instrument of data entry" and refers to voice in particular, it is submitted that there is no clear disclosure of any "providing the customer with an option to respond, *according to the customer's preference*, with a requested product identification in spoken words and an option to respond with a requested product identification in DTMF-encoded signals". Other portions of the Scherer patent also are not clear as to whether this option is provided, see, for example, Scherer at col. 2, lines 49 through 60 (emphasis added):

Once the TCA is activated, preferably, it prompts for data 14. For example, to support credit card transactions, the system may say "Credit card processing is now on-line. Please enter a 16 digit credit card number." Preferably, either the caller or called party may enter the credit card number. For example, if the caller is not calling from a touch-tone telephone, then the called party may enter the credit card number 16. The ability to allow either party to used a touch-tone telephone to enter data, in this case, the card number, is unique to the present invention. In an alternative embodiment, voice recognition may be used to enter the credit card number and all additional data.

It is submitted that this portion of the Scherer patent suggests that if one party does not have a "touch time telephone", then the *other* "called" party

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may use touch tone. More importantly, this portion that that "In an alternative embodiment, voice recognition may be used to enter the credit card number and all additional data". It is submitted that this suggests to one of ordinary skill in the art that these options are available in alternative implementations or embodiments of the Scherer system, and not both in the same embodiment.

It is therefore submitted that the cited patents, and especially the allegedly obvious combination of Walsh and Scherer set forth in the rejection of the Office Action, would not lead one skilled in the art to the applicant's invention as required by claim 54.

Withdrawal of the §103(a) rejection of claim 54 is therefore respectfully requested.

### CONCLUSION

In light of the foregoing amendments and remarks, early reconsideration and allowance of this application are most courteously solicited.

Respectfully submitted,

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